



Sen. John J. Cullerton

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09400HB1469sam002

LRB094 09450 RLC 46391 a

1 AMENDMENT TO HOUSE BILL 1469

2 AMENDMENT NO. _____. Amend House Bill 1469 on page 5, by
3 inserting immediately below line 10 the following:

4 "(720 ILCS 5/10A-15 new)

5 Sec. 10A-15. Forfeitures.

6 (a) A person who commits the offense of involuntary
7 servitude, involuntary servitude of a minor, or trafficking of
8 persons for forced labor or services under Section 10A-10 of
9 this Code shall forfeit to the State of Illinois any profits or
10 proceeds and any interest or property he or she has acquired or
11 maintained in violation of Section 10A-10 of this Code that the
12 sentencing court determines, after a forfeiture hearing, to
13 have been acquired or maintained as a result of maintaining a
14 person in involuntary servitude or participating in
15 trafficking in persons for forced labor or services.

16 (b) The court shall, upon petition by the Attorney General
17 or State's Attorney at any time following sentencing, conduct a
18 hearing to determine whether any property or property interest
19 is subject to forfeiture under this Section. At the forfeiture
20 hearing the people shall have the burden of establishing, by a
21 preponderance of the evidence, that property or property
22 interests are subject to forfeiture under this Section.

23 (c) In any action brought by the People of the State of
24 Illinois under this Section, wherein any restraining order,
25 injunction, or prohibition or any other action in connection

1 with any property or interest subject to forfeiture under this
2 Section is sought, the circuit court presiding over the trial
3 of the person or persons charged with involuntary servitude,
4 involuntary servitude of a minor, or trafficking in persons for
5 forced labor or services shall first determine whether there is
6 probable cause to believe that the person or persons so charged
7 have committed the offense of involuntary servitude,
8 involuntary servitude of a minor, or trafficking in persons for
9 forced labor or services and whether the property or interest
10 is subject to forfeiture pursuant to this Section. In order to
11 make such a determination, prior to entering any such order,
12 the court shall conduct a hearing without a jury, wherein the
13 People shall establish that there is: (i) probable cause that
14 the person or persons so charged have committed the offense of
15 involuntary servitude, involuntary servitude of a minor, or
16 trafficking in persons for forced labor or services and (ii)
17 probable cause that any property or interest may be subject to
18 forfeiture pursuant to this Section. The hearing may be
19 conducted simultaneously with a preliminary hearing, if the
20 prosecution is commenced by information or complaint, or by
21 motion of the People, at any stage in the proceedings. The
22 court may accept a finding of probable cause at a preliminary
23 hearing following the filing of an information charging the
24 offense of involuntary servitude, involuntary servitude of a
25 minor, or trafficking in persons for forced labor or services
26 or the return of an indictment by a grand jury charging the
27 offense of involuntary servitude, involuntary servitude of a
28 minor, or trafficking in persons for forced labor or services
29 as sufficient evidence of probable cause as provided in item
30 (i) of this subsection (c). Upon such a finding, the circuit
31 court shall enter such restraining order, injunction or
32 prohibition, or shall take such other action in connection with
33 any such property or other interest subject to forfeiture, as
34 is necessary to insure that such property is not removed from

1 the jurisdiction of the court, concealed, destroyed, or
2 otherwise disposed of by the owner of that property or interest
3 prior to a forfeiture hearing under this Section. The Attorney
4 General or State's Attorney shall file a certified copy of the
5 restraining order, injunction, or other prohibition with the
6 recorder of deeds or registrar of titles of each county where
7 any such property of the defendant may be located. No such
8 injunction, restraining order, or other prohibition shall
9 affect the rights of any bona fide purchaser, mortgagee,
10 judgment creditor, or other lien holder arising prior to the
11 date of such filing. The court may, at any time, upon verified
12 petition by the defendant or an innocent owner or innocent bona
13 fide third party lien holder who neither had knowledge of, nor
14 consented to, the illegal act or omission, conduct a hearing to
15 release all or portions of any such property or interest that
16 the court previously determined to be subject to forfeiture or
17 subject to any restraining order, injunction, or prohibition or
18 other action. The court may release such property to the
19 defendant or innocent owner or innocent bona fide third party
20 lien holder who neither had knowledge of, nor consented to, the
21 illegal act or omission for good cause shown and within the
22 sound discretion of the court.

23 (d) Upon conviction of a person of involuntary servitude,
24 involuntary servitude of a minor, or trafficking in persons for
25 forced labor or services, the court shall authorize the
26 Attorney General to seize all property or other interest
27 declared forfeited under this Section upon such terms and
28 conditions as the court shall deem proper.

29 (e) All monies forfeited and the sale proceeds of all other
30 property forfeited and seized under this Section shall be
31 distributed as follows:

32 (1) one-half shall be divided equally among all State
33 agencies and units of local government whose officers or
34 employees conducted the investigation that resulted in the

1 forfeiture; and

2 (2) one-half shall be deposited into the Violent Crime
3 Victims Assistance Fund and targeted to services for
4 victims of the offenses of involuntary servitude,
5 involuntary servitude of a minor, and trafficking of
6 persons for forced labor or services.

7 (720 ILCS 5/10A-20 new)

8 Sec. 10A-20. Certification. The Attorney General, State's
9 Attorneys, or any law enforcement official shall certify in
10 writing to the United States Department of Justice or other
11 federal agency, such as the United States Department of
12 Homeland Security, that an investigation or prosecution under
13 this Article 10A has begun and the individual who is a likely
14 victim of a crime described in this Article 10A is willing to
15 cooperate or is cooperating with the investigation to enable
16 the individual, if eligible under federal law, to qualify for
17 an appropriate special immigrant visa and to access available
18 federal benefits. Cooperation with law enforcement shall not be
19 required of victims of a crime described in this Article 10A
20 who are under 18 years of age. This certification shall be made
21 available to the victim and his or her designated legal
22 representative."